

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DALE TOLLEY and	:	Case No. 3:17-cv-157
CHARLENE TOLLEY,	:	
	:	
Plaintiffs,	:	Judge Thomas M. Rose
	:	
	:	
v.	:	
	:	
MENARD, INC., et al.,	:	
	:	
Defendants.	:	

**ENTRY AND ORDER SETTING CONSOLIDATED BRIEFING SCHEDULE
ON MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT
(DOC. 17) AND MOTION TO REMAND (TO BE FILED) AND STAYING
BRIEFING ON MOTION FOR SUMMARY JUDGMENT (DOC. 16)**

This case is before the Court on the Motion for Leave to File First Amended Complaint (“Motion to Amend”) (Doc. 17) filed by Plaintiffs Dale Tolley and Charlene Tolley (“Plaintiffs”). If the Motion to Amend were granted, the diversity of citizenship, upon which the Court’s jurisdiction is based, would be destroyed – since Plaintiffs and a newly named Defendant in the First Amended Complaint are all Ohio residents. Defendant Menard, Inc. (“Menard”) has informed the Court that it will oppose the Motion to Amend and would oppose any motion to remand this case to state court on the same grounds.

Therefore, in order to avoid duplicative briefing on these motions, the Court **ORDERS** the following consolidated briefing schedule on the Motion to Amend and anticipated motion to remand:

- Plaintiffs shall file a Motion to Remand this case to state court—which shall assume, for argument purposes, that the Motion to Amend will be granted—by no later than November 22, 2017;
- Menard shall file a consolidated response to the Motion to Amend and Motion to Remand by no later than December 6, 2017;
- Plaintiffs shall file a consolidated reply to Menard’s response by no later than December 13, 2017;
- Plaintiffs’ response to Menard’s Motion for Summary Judgment (Doc. 16) is hereby stayed;
- The Court will set a new deadline for Plaintiffs to respond to the Motion for Summary Judgment after the Court rules on the Motion to Amend and Motion to Remand.

DONE and ORDERED in Dayton, Ohio, this Wednesday, November 15, 2017.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE